

Message Text

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PAGE 01 CARACA 10674 140114Z

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C O N F I D E N T I A L CARACAS 10674

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E.O. 11652: GDS

TAGS: ENRG, PFOR, VE

SUBJECT: PETROLEUM REVERSION - THE COMPENSATION OFFER

1. THE MINISTRY OF MINES CALLED IN AT LEAST MOST OF THE COMPANIES INDIVIDUALLY ON OCTOBER 10 FOR AN ADVANCE LOOKS AT THE COMPENSATION OFFERS. SEVERAL (INCLUDING PHILLIPS AND CREOLE TO OUR CERTAIN KNOWLEDGE) BALKED AT VARIOUS PROVISIONS. A GOOD DEAL OF HARD BARGAINING ENSUED OVER THE WEEKEND. THE FORMAL OFFERS WERE DELIVERED THIS MORNING. BY DEPTTEL WE ARE PROVIDING IN TRANSLATION THE TEXT OF THE OFFER (MINUS THE NUMBERS) GIVEN TO CREOLE. (THERE WERE APPARENTLY ONE OR TWO MINOR WORD CHANGES AT THE LAST MINUTE, BUT, ACCORDING TO ROBERT DOLPH, NOTHING TO ALTER THE SUBSTANCE OF THE TEXT WE HAVE.) WE ARE CHECKING TO CONFIRM THAT THE LANGUAGE IS STANDARD IN ALL THE OFFERS.

2. THE WORDING OF THE QUIT CLAIMS (ARTICLE V-3) WAS A PARTICULAR ITEM AT ISSUE. AS ORIGINALLY DRAFTED, THE LANGUAGE PROVIDED THAT ON ACCEPTING COMPENSATION, A COMPANY WOULD FOREGO ANY CLAIM "BY ANY CONCEPT RELATED TO THE EXTINGUISHMENT OF THE CONCESSIONS," AS WELL AS WITH RESPECT TO THE ASSETS DELIVERED BY A COMPANY AS A RESULT OF NATIONALIZATION. THE FINAL VERSION (SEE SEPTTEL) IS NARROWER, LIMITING THE QUIT CLAIM TO THE ASSETS DELIVERED AND TRANSFERRED. DOLPH TOLD ME SATURDAY NIGHT THAT THE SWEEPING LANGUAGE OF THE ORIGINAL WAS UNACCEPTABLE TO CREOLE. HE SAID THIS MORNING THAT THE ELIMINATION OF THE PHRASE BARRING RECOURSE ON ANYTHING RELATED TO THE EXTINGUISHMENT OF THE CONCESSIONS PROBABLY MAKES THE FORMULATION AS IT NOW STANDS ACCEPTABLE TO HIS COMPANY.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 CARACA 10674 140114Z

3. ANOTHER CHANGE WAS THE INTRODUCTION IN ARTICLE V-4 OF SPECIFIC REFERENCE TO ARTICLE 127 OF VENEZUELA'S CONSTITUTION, THE "CALVO" PROVISION IN THAT DOCUMENT. ALTHOUGH THE REAL EFFECT REMAINS THE SAME, THE IMPRESSION OF AN ARBITRARY IMPOSITION IS SOFTENED SOMEWHAT BY ESTABLISHING THE OBVIOUS LINK TO A CONSTITUTIONAL MANDATE OF CONSIDERABLE ANTIQUITY. ARTICLE 1-2 WAS AMENDED DURING THE WEEKEND NEGOTIATIONS BY THE ADDITION OF THE LAST SENTENCE WHICH SAFEGUARDS A COMPANY'S RIGHT TO ARGUE THE DISTINCTION BETWEEN CONCESSION ASSETS AND ASSETS BROUGHT IN ON A TEMPORARY BASIS FOR USE ON A CONCESSION. (THE REFERENCE TO ARTICEL 159 OF THE INCOME TAX LAW IS TO THE PROVISION ALLOWING THE COMPANIES COMPLETE OFFSET (UP TO CERTAIN LIMITS) AGAINST THIS YEAR'S TAXES OF AGREED INVESTMENTS MADE THIS YEAR.)

4. ARTICLE IV - 3&4 MIGHT BE READ AS POINTING TOWARD THE RESTRICTION OF TECHNICAL SERVICES AGREEMENTS TO THOSE COMPANIES WHICH ARE CURRENTLY OPERATING CONCESSIONS. THIS WOULD AFFECT THE CASE OF AMOCO. THAT COMPANY HOLDS THE "HOBO" CONCESSION (ABOUT 30,000 B/D) BUT CONTRACTS ITS OPERATION TO PHILLIPS. THE LATTER ALSO OPERATES THE CONTINGUOUS "MARICHAL" CONCESSION. AMOCO HAS BEEN IN DISCUSSIONS WITH THE MINISTRY, SEEKING TO SPLIT OFF "HOBO" FOR SEPARATE TREATMENT. WE WILL REPORT FURTHER ON THAT SITUATION WITHIN THE NEXT DAYS. WE WILL ALSO BE TALKING TO TH OTHER COMPANIES.

5. IT IS WELL TO KEEP IN MIND THAT A GOOD DEAL OF BARGAINING LIES AHEAD. NO COMPANY HAS ACCEPTED AN OFFER, AND ALL WILL BE TRYING TOO MAXIMIZE BENEFITS AS THE "PACKAGES" ARE NEGOTIATED DURING THE NEXT 15 DAYS. FOR EXAMPLE, CREOLE WILL CONTINUE TO PRESS FOR A HIGHTER PER-BARREL FEE AS THE MOST CRITICAL ELEMENT IN THE ARRANGEMENT.

6. I HAVE NOT SEEN THE PRESIDENT AS YET BUT HOPE TO WITHIN THE NEXT FEW DAYS NOW THAT HE IS BACK FROM VARIOUS CEREMONIES IN THE PROVINCES. I DID HAVE A BRIEF PRIVATE CHAT WITH THE MINISTER OF MINES THE EVENING OF OCTOBER 8. WITHOUT REFERRING TO ANYTHING IMPENDING WITH THE PRESIDENT, I DID TELL HIM THAT WE WERE CONCERNED ABOUT THE SMALL CONCESSIONAIRES, AND THAT WE LOOKED FOR THEM TO RECEIVE FAIR AND EQUITABLE TREATMENT. I REFERRED SPECIFICALLY IN THAT CONTEXT TO THE TECHNICAL SERVICES CONTRACTS.
CONFIDENTIAL

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PAGE 03 CARACA 10674 140114Z

VALENTIN HERNANDEZ REPLIED WITH HIS USUAL OPTIMISM ABOUT THE COURSE OF NEGOTIATIONS, BUT I AM CONFIDENT HE GOT THE POINT.
SHLAUDEMAM

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